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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.	
10/601,043	06/20/2003	Stephen James Crampton	BRSF119831	8366	
26389	7590 08/10/2006		EXAMINER		
CHRISTENSEN, O'CONNOR, JOHNSON, KINDNESS, PLLC			DANG, DUY M		
SUITE 2800			ART UNIT	PAPER NUMBER	
SEATTLE, WA 98101-2347			2624		
				DATE MAILED: 08/10/2006	

Please find below and/or attached an Office communication concerning this application or proceeding.

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION. - Extensions of time may be available under the provisions of 37 CFR 1.138(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication. - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (8) MONTHS from the mailing date of this communication. - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b). Status 1) Responsive to communication(s) filed on 13 June 2006. 2a) This action is FINAL. 2b) This action is non-final. 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213. Disposition of Claims 4) Claim(s) 67-117 is/are pending in the application. 4a) Of the above claim(s) 67-82 is/are withdrawn from consideration. 5) Claim(s) 83-117 is/are rejected. 7) Claim(s) is/are allowed. 6) Claim(s) is/are objected to. 8) Claim(s) are subject to restriction and/or election requirement.		Application No.	Applicant(s)				
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	Attachment(s)						
	 Notice of References Cited (PTO-892) Notice of Draftsperson's Patent Drawing Review (PTO-948) 						
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Paper No(s)/Mail Date 6 22/03, 11/17/03, 4, 12/8/05 6) Other:		6) Other:					

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DETAILED ACTION

1. Applicant's preliminary amendment filed on December 08, 2005 to cancel claims 1-66 and add new claims 83-117 has been entered and made of record. Currently, claims 67-117 are pending.

Election/Restrictions

- 2. Applicant's election without traverse of Invention of Group I, Claims 83-117 in the reply filed on June 13, 2006 is acknowledged.
- 3. Claims 67-82 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected Invention of Group II, there being no allowable generic or linking claim. Election was made without traverse in the reply filed on June 13, 2006.
- 4. Applicant's amendment to cancel these nonelected claims 67-82 in response to this office action is advised.

Double Patenting

5. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., In re Berg, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); In re Goodman, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); In re Longi, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); In re Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

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6. Claims 83-117 are rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-10 of U.S. Patent No. 6,611,617 [referred as the patent '617 hereinafter]. Although the conflicting claims are not identical, they are not patentably distinct from each other because of the following reasons:

It is noted that application claims 83-117 recite a broader recitation of the invention and patented claims 1-10 of the patent '617 cover the equivalent subject matter as that of applications claim 83-117 of the instant application. Specifically, each of the limitations of claims 83-117 of the instant application is set forth in patented claims 1-10. While the patented claims 1-10 include additional limitations not set forth in claims 83-117 of the instant application, the use of transitional term "comprising" in the instant claims 83-117 fail to preclude the possibility of additional elements. Therefore, claims 83-117 of the instant application fail to define an invention that is patentably distinct from claims 1-10 of the patent '617.

Conclusion

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Duy M. Dang whose telephone number is 571-272-7389. The examiner can normally be reached on Monday to Friday from 6:00AM to 2:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Matthew C. Bella can be reached on 571-272-7778. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

dmd August 7, 2006 DUY M. DANG
PRIMARY EXAMINER